

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated January 7, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-13 are pending in the Application. Claims 11-13 are added by this amendment. By means of the present amendment, claims 1-10 are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include changing dependent claims to begin with "The", as well as correcting certain informalities. By these amendments, claims 1-10 are not amended to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents. Applicant furthermore reserves the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Office Action, claim 6 is indicated as allowable if amended to be in independent form. New claims 11-13 provide the indicated allowable portions of claim 6 rewritten to be in

independent and U.S. form. Accordingly, it is respectfully submitted that claims 11-13 are allowable and an indication of that effect is respectfully requested.

The Office Action provides guidelines for a suggested arrangement of the specification including suggested section headings. Applicant appreciates the suggestions however respectfully declines to add the section headings. Section headings are not statutorily required for filing a non-provisional patent application under 35 USC 111(a), but per 37 CFR 1.51(d) are only guidelines that are suggested for applicant's use.

The drawings are objected to due to a lack of labels in FIG. 6. In response, labels have been added to FIGs. 2 and 6. Replacement sheets including replacement FIGs. 2 and 6 are enclosed. Applicant respectfully requests approval of the enclosed proposed drawing changes and withdrawal of the drawing objection.

Claim 10 is rejected under 35 U.S.C. §101. Without agreeing with the rejection, and to advance prosecution and expedite allowance of the present application, claim 10 is rewritten to recite "Computer program stored on a computer readable medium ...". Clearly claim 10 is proper under 35 U.S.C. §101 and an indication to that effect is respectfully requested.

Claims 1-5 and 9-10 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by European Patent No. EP 1282128 A1 to Sasaki ("Sasaki"). Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sasaki in view of U.S. Patent Publication No. 2002/0136137 to Shishido ("Shishido"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-10 are allowable over Sasaki alone and in view of Shishido for at least the following reasons.

Sasaki shows a system that utilizes foreground formatting of a lead-in area including an FDCB area (see, paragraph [0029]). Background formatting is thereafter initiated in a background process for filling a user data area 22 following the lead-in area (see, FIG. 2A) with dummy data (see, paragraph [0030]). "[T]he drive stores the data storage status information in FDCB 25 in lead-in region 21 before ejecting the disk (Fig. 2D). The data storage status information contains an address PI at which the background formatting is interrupted and the information indicating in which region of the unformatted region the user data are recorded." (See, paragraph [0033], emphasis added.)

The Office Action alleges that these sections of Sasaki, namely paragraphs [0029]-[0033], show "providing on the record

carrier status information indicating a size of a contiguously written area that extends from the beginning of the recording area in dependence on detecting a pre-existing contiguously written area that extends from the beginning of the recording area" as for example recited in claim 1, however it is respectfully submitted that reliance on these portions of Sasaki is misplaced. Sasaki merely shows storing an indication of whether a region is recorded or unrecorded (see, paragraph [0009]) and does not store an indication of the size of a contiguously written area. Further, Sasaki does not show detecting a pre-existing contiguously written area as in Sasaki, a region is merely indicated as being recorded or unrecorded regardless of whether a recorded area is a contiguously recorded area from the beginning of the recording area.

It is respectfully submitted that the device of claim 1 is not anticipated or made obvious by the teachings of Sasaki. For example, Sasaki does not disclose or suggest, a device that amongst other patentable elements, comprises (illustrative portion of claim provided) "providing on the record carrier status information indicating a size of a contiguously written area that extends from the beginning of the recording area in dependence on detecting a

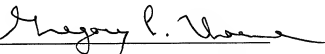
pre-existing contiguously written area that extends from the beginning of the recording area" as recited in claim 1, and as similarly recited in each of claims 9 and 10. Shishido is introduced for allegedly showing elements of the dependent claims and as such, does nothing to cure the deficiencies in Sasaki.

Based on the foregoing, the Applicant respectfully submits that independent claims 1, 9 and 10 are patentable over Sasaki alone and in view of Shishido and notice to this effect is earnestly solicited. Claims 2-8 depend from claim 1 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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Enclosure: Replacement drawing sheets (2 sheets including FIGs.  
2 and 6)

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